



February 21, 2014

ENGROSSED SENATE BILL No. 312

DIGEST OF SB 312 (Updated February 19, 2014 1:01 pm - DI 107)

Citations Affected: IC 4-30; IC 34-28.

Synopsis: Assignment of lottery prizes. Provides that a person who wins a prize payable in installments from the lottery commission may assign the future prize payments under certain circumstances upon court approval. Sets forth requirements for a court order approving a prize assignment. Requires that a petition to assign a prize must be served upon the lottery commission's director and the child support bureau. Requires the assignee to provide certain information. Requires the director of the lottery commission to investigate and certify whether a person who petitions for a lottery prize assignment has or has not satisfied debts to state agencies. Provides that if the Internal Revenue Service, the department of state revenue, or a court issues a determination or ruling that the voluntary assignment of a prize will affect federal income tax treatment, the commission shall file the determination or ruling with the attorney general's office and the Indiana judicial center, and a court may not issue a voluntary assignment of a prize after the date of the determination or ruling. Adds the department of child services to the list of agencies that must identify to the commission individuals who owe past due child support.

Effective: July 1, 2014.

Head, Holdman, Randolph

(HOUSE SPONSORS — MCMILLIN, DELANEY, DERMODY)

January 14, 2014, read first time and referred to Committee on Judiciary.
January 23, 2014, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.
January 30, 2014, amended, reported favorably — Do Pass.
February 3, 2014, read second time, amended, ordered engrossed.
February 4, 2014, engrossed. Read third time, passed. Yeas 46, nays 2.
HOUSE ACTION
February 10, 2014, read first time and referred to Committee on Public Policy.
February 20, 2014, amended, reported — Do Pass.

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February 21, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 312

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-30-5-6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 6. If a person files a petition to assign a lottery prize**
4 **under IC 34-28-9.2 and the person has had debts to a state agency,**
5 **the director shall:**

6 (1) **investigate whether the person has any outstanding debts**
7 **to a state agency; and**

8 (2) **submit a letter, within fifteen (15) days after receiving the**
9 **petition, to the petitioner and the court in which the petition**
10 **is filed that:**

11 (A) **references the cause number of the petition to assign a**
12 **lottery prize; and**

13 (B) **states whether the person has or has not satisfied debts**
14 **to a state agency.**

15 SECTION 2. IC 4-30-11-2 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 2. (a) Except as**

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1 **provided in section 2.5 of this chapter**, the right of any person to a
 2 prize is not assignable.

3 **(b)** A prize may be paid to the estate of a deceased prize winner or
 4 to a person designated under an appropriate judicial order.

5 SECTION 3. IC 4-30-11-2.5 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2014]: **Sec. 2.5. (a) The right of a person to a prize is assignable**
 8 **if the prize is paid by the commission in installments over time.**

9 **(b)** A prize described in subsection (a) may be assigned, in whole
 10 or in part, if the assignment is made to a person or entity approved
 11 by a court based on a petition filed under IC 34-28-9.2.

12 **(c)** A prize payment may not be assigned to more than three (3)
 13 individuals or entities and a prize winner may not initiate more
 14 than three (3) assignment transactions in any single year.

15 **(d)** An individual or entity may be substituted for an individual
 16 or entity that is assigned a prize.

17 **(e)** If more than one (1) person owns a prize, any assignment of
 18 the prize must be made by each of the individuals who own the
 19 prize.

20 **(f)** A prize cannot be assigned until all debts listed in section 11
 21 of this chapter are satisfied.

22 **(g)** A prize payment or any portion of a prize payment may not
 23 be assigned more than three (3) times unless the commission
 24 consents to an additional assignment.

25 **(h)** The commission may charge a reasonable fee to the assignee
 26 to defray the cost of any administrative expenses associated with
 27 assignments approved by a court under IC 34-28-9.2. The fee may
 28 include the cost to the commission of a reasonable processing fee
 29 charged by a private annuity provider based on the direct and
 30 indirect costs of processing the assignment.

31 **(i)** A person who enters into a contract to assign a prize under
 32 this section may cancel the contract assigning the person's prize
 33 within three (3) business days after the date the contract assigning
 34 the prize is signed.

35 **(j)** Except as provided in IC 4-30-11-2(b), a contract assigning
 36 a prize and entered into before July 1, 2014, is unenforceable and
 37 invalid.

38 SECTION 4. IC 4-30-11-10 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 10. The commission is**
 40 **discharged of all liability upon payment of a prize, including a prize**
 41 **that has been assigned under section 2.5 of this chapter.**

42 SECTION 5. IC 4-30-11-11, AS AMENDED BY P.L.172-2011,



SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. **(a) As used in this section, "debt" means an obligation that is evidenced by an assessment or lien issued by a state agency, a judgment, or a final order of an administrative agency.**

~~(a)~~ **(b)** The treasurer of state, the department of state revenue, the department of administration, the Indiana department of transportation, the attorney general, **the department of child services**, and the courts shall identify to the commission, in the form and format prescribed by the commission and approved by the auditor of state, a person who:

- (1) owes an outstanding debt to a state agency;
- (2) is on the department of state revenue's most recent tax warrant list; or
- (3) owes **past due** child support collected and paid to a recipient through a court.

~~(b)~~ **(c)** Before the payment of a prize of more than five hundred ninety-nine dollars (\$599) to a claimant identified under subsection ~~(a)~~, **(b)**, the commission shall deduct the amount of the obligation from the prize money and transmit the deducted amount to the auditor of state. The commission shall pay the balance of the prize money to the prize winner after deduction of the obligation. If a prize winner owes multiple obligations subject to offset under this section and the prize is insufficient to cover all obligations, the amount of the prize shall be applied as follows:

- (1) First, to the child support obligations **past due and** owed by the prize winner that are collected and paid to a recipient through a court.
- (2) Second, to judgments owed by the prize winner.
- (3) Third, to tax liens owed by the prize winner.
- (4) Fourth, to unsecured debts owed by the prize winner **to a state agency.**

Within each of the categories described in subdivisions (1) through (4), the amount and priority of the prize shall be applied in the manner that the auditor of state determines to be appropriate. The commission shall reimburse the auditor of state pursuant to an agreement under IC 4-30-15-5 for the expenses incurred by the auditor of state in carrying out the duties required by this section.

(c) As used in this section, "debt" means an obligation that is evidenced by an assessment or lien issued by a state agency, a judgment, or a final order of an administrative agency.

SECTION 6. IC 34-28-9.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2014]:

Chapter 9.2. Assignment of Lottery Prizes

Sec. 1. (a) As set forth in IC 4-30-11-2.5, a person who has won a prize from the state lottery commission created under IC 4-30-3 may file a verified petition with the Marion circuit court to approve the assignment of the prize.

(b) A verified petition filed under this section must include:

(1) statements that the person understands:

(A) the assignment of the prize is voluntary; and

(B) their right to solicit multiple bids for their payments;

(2) a statement explaining to whom the prize would be assigned;

(3) a statement that the person is of sound mind, is in full command of the person's faculties, and is not acting under duress;

(4) a statement detailing that the person has had the opportunity to receive or has received legal, financial, and tax advice from a person or entity other than the person or entity that would be assigned the prize;

(5) a statement that the person understands that the person will not receive the future payments of the prize after the prize payments are assigned;

(6) a statement that the person understands that, with regard to the assigned payments of the prize, the state lottery commission and its employees are not liable to make any future payments to the person that are subject to an assignment made under IC 4-30-11-2.5;

(7) a statement that the person understands that the person may cancel the contract assigning the person's prize within three (3) business days after the date the contract assigning the prize is signed;

(8) details of the proposed assignment, including:

(A) the amount of the payments assigned;

(B) the dates the payments are assigned;

(C) the purchase price of the payments assigned;

(D) the rate of discount to present value, assuming daily compounding and funding on the contract date; and

(E) the amount, if any, of any origination or closing fees charged to the person;

(9) a statement detailing whether the person:

(A) owes child support;

(B) owes money as part of a judgment or garnishment;



- (C) has not satisfied an order for criminal restitution; or
- (D) owes any debt to an Indiana state agency that has provided written notice to the person regarding the debt;
- (10) a sworn affirmation that the contents of the petition are true; and
- (11) a statement that the person has had an adequate opportunity to receive multiple bids to assign their prize.

Sec. 2. If a petition filed under section 1 of this chapter indicates that the petitioner has one (1) or more current child support obligations and the Title IV-D agency has entered an appearance:

- (1) the court shall consider ordering the petitioner to secure a bond under IC 31-16-3.5 for the purpose of insuring the future payment of child support obligations; and
- (2) if the purchase price of the payments assigned under section (1)(b)(8) is insufficient to secure a child support bond, then the court shall consider denying the petition.

Sec. 3. If a court finds that a prize from the state lottery commission may be assigned based on a petition filed under section 1 of this chapter and IC 4-30-11-2.5, the court shall issue an order approving the prize assignment. The order must include a statement that the petitioner:

- (1) has filed a verified petition under section 1 of this chapter;
- (2) understands:
 - (A) the assignment of the prize is voluntary;
 - (B) to whom the prize will be assigned;
 - (C) the person will not receive future payments that are subject to an assignment made under IC 4-30-11-2.5;
 - (D) the state lottery commission and its employees are not liable to make any additional payments to the person that are subject to an assignment under IC 4-30-11-2.5; and
 - (E) that the person may cancel the contract assigning the person's prize within three (3) business days after the date the contract assigning the prize is signed;
- (3) is of sound mind, is in full command of the person's faculties, and is not acting under duress;
- (4) has received or has had the opportunity to receive legal, financial, and tax advice from a person or entity other than the person or entity that would be assigned the prize;
- (5) has no debts to state agencies or has satisfied all past debts to state agencies; and
- (6) has received, prior to signing the contract assigning the prize, a written disclosure statement, on a separate piece of



1 paper, in bold type with a font at least fourteen (14) points,
2 stating the details of the proposed assignment, including:

- 3 (A) the amount of the payments assigned;
4 (B) the dates of the payments assigned;
5 (C) the purchase price of the payments assigned;
6 (D) the rate of discount to present value, assuming daily
7 compounding and funding on the contract date; and
8 (E) the amount, if any, of any origination or closing fees
9 charged to the person.

10 Sec. 4. A person filing a petition under this chapter shall serve
11 a copy of the petition on the state lottery commission's director and
12 the child support bureau established by IC 31-25-3-1.

13 Sec. 5. If a court schedules a hearing on a petition filed under
14 this chapter, the court shall notify the state lottery commission's
15 director, the child support bureau established by IC 31-25-3-1, and
16 the petitioner at least twenty (20) days before the hearing date.

17 Sec. 6. (a) The state lottery commission and the child support
18 bureau established by IC 31-25-3-1 are not required to respond to
19 a petition filed under this chapter.

20 (b) The state lottery commission and the child support bureau
21 established by IC 31-25-3-1 may file a response to a petition filed
22 under this chapter and may participate in any hearings, if any, on
23 petitions filed under this chapter.

24 Sec. 7. If a court approves a prize assignment under this
25 chapter, the court shall provide a copy of the order to the state
26 lottery commission within twenty (20) days of the order being
27 entered and at least thirty (30) days before the first assigned
28 payment is to be made to the assignor.

29 Sec. 8. The person to whom a prize from the state lottery
30 commission is assigned must provide the information that the state
31 lottery commission determines is necessary to make the assignment
32 of the prize, including the person's correct name, the person's
33 appropriate address, and the necessary tax identification numbers
34 and information.

35 Sec. 9. If the Internal Revenue Service or a court issues a
36 determination letter, revenue ruling, other public ruling of the
37 Internal Revenue Service, or a published decision to the
38 commission or any lottery winner declaring that the voluntary
39 assignment of prizes will affect the federal income tax treatment of
40 a prize winner who does not assign the winner's prizes, the state
41 lottery commission shall file a copy of the letter, ruling, or decision
42 with the attorney general's office and the Indiana judicial center.



1 A court may not issue an order authorizing a voluntary assignment
2 of a prize after the date the ruling, letter, or published decision is
3 filed.

4 Sec. 10. If the department of state revenue issues a
5 determination, ruling, or finding to the commission or any lottery
6 winner declaring that the voluntary assignment of a prize will
7 reduce the state income tax due on the prize, the department of
8 state revenue shall file the determination, ruling, or finding with
9 the lottery commission, the attorney general's office, and the
10 Indiana judicial center. A court may not issue an order authorizing
11 a voluntary assignment of a prize after the date the determination,
12 ruling, or finding is filed.



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 312, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 36, after "a" insert "**judgment or**".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 312 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 312, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, line 6, delete "subsection (b);" and insert "**section 1 of this chapter;**".

Page 5, line 20, delete "an" and insert "a".

Page 6, delete lines 9 through 10, begin a new paragraph and insert:

"Sec. 7. The person to whom a prize from the state lottery commission is assigned must provide the information that the state lottery commission determines is necessary to make the assignment of the prize, including the person's correct name, the person's appropriate address, and the necessary tax identification numbers and information."

Page 6, after line 21, begin a new paragraph and insert:

"Sec 9. If the department of state revenue issues a determination, ruling, or finding to the commission or any lottery winner declaring that the voluntary assignment of a prize will reduce the state income tax due on the prize, the department of state revenue shall file the determination, ruling, or finding with the lottery commission, the attorney general's office, and the Indiana judicial center. A court may not issue an order authorizing



a voluntary assignment of a prize after the date the determination, ruling, or finding is filed."

and when so amended that said bill do pass.

(Reference is to SB 312 as printed January 24, 2014.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 312 be amended to read as follows:

Page 4, line 35, delete "past due".

Page 4, after line 42, begin a new paragraph and insert:

"Sec. 2. If a petition filed under section 1 of this chapter indicates that the petitioner has one (1) or more current child support obligations and the Title IV-D agency has entered an appearance:

(1) the court shall consider ordering the petitioner to secure a bond under IC 31-16-3.5 for the purpose of insuring the future payment of child support obligations; and

(2) if the purchase price of the payments assigned under section (1)(b)(8) is insufficient to secure a child support bond, then the court shall consider denying the petition."

Page 5, line 1, delete "2." and insert "3."

Page 5, line 35, delete "3." and insert "4."

Page 5, line 36, delete "." and insert **"and the child support bureau established by IC 31-25-3-1."**

Page 5, line 37, delete "4." and insert "5."

Page 5, line 39, after "counsel" insert **", the child support bureau established by IC 31-25-3-1,"**.

Page 5, line 41, delete "5." and insert "6."

Page 5, line 41, delete "is" and insert **"and the child support bureau established by IC 31-25-3-1 are"**.

Page 6, line 1, after "commission" insert **"and the child support bureau established by IC 31-25-3-1"**.

Page 6, line 4, delete "6." and insert "7."

Page 6, line 9, delete "7." and insert "8."

Page 6, line 15, delete "8." and insert "9."



Page 6, line 26, delete "Sec. 9." and insert "**Sec. 10.**".
(Reference is to SB 312 as printed January 31, 2014.)

HEAD

SENATE MOTION

Madam President: I move that Senate Bill 312 be amended to read as follows:

Page 2, line 31, delete "price" and insert "**prize**".

Page 4, line 21, delete "additional prize payments to the person;" and insert "**future payments to the person that are subject to an assignment made under IC 4-30-11-2.5;**".

Page 5, line 10, delete "of the prize" and insert "**that are subject to an assignment made under IC 4-30-11-2.5;**".

Page 5, delete line 11.

Page 5, line 13, delete "person;" and insert "**person that are subject to an assignment under IC 4-30-11-2.5;**".

(Reference is to SB 312 as printed January 31, 2014.)

HEAD

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 312, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "IC 34-28-9" and insert "**IC 34-28-9.2**".

Page 1, line 8, delete "certified".

Page 1, line 8, delete "ten (10)" and insert "**fifteen (15)**".

Page 2, line 11, delete "IC 34-28-9." and insert "**IC 34-28-9.2**".

Page 2, line 13, delete "." and insert "**and a prize winner may not initiate more than three (3) assignment transactions in any single year.**".

Page 2, between lines 20 and 21, begin a new paragraph and insert:

"(g) **A prize payment or any portion of a prize payment may not be assigned more than three (3) times unless the commission consents to an additional assignment.**".

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Page 2, line 21, delete "(g)" and insert "**(h)**".
 Page 2, line 21, after "fee" insert "**to the assignee**".
 Page 2, line 23, delete "IC 34-28-9" and insert "**IC 34-28-9.2**".
 Page 2, line 27, delete "(h)" and insert "**(i)**".
 Page 2, line 31, delete "(i) A" and insert "**(j) Except as provided in IC 4-30-11-2(b), a**".
 Page 3, line 36, delete "IC 34-28-9" and insert "IC 34-28-9.2".
 Page 3, line 39, delete "9." and insert "**9.2**".
 Page 3, line 42, delete "or a".
 Page 4, line 1, delete "circuit or superior court of the county where the person resides".
 Page 4, line 4, delete "a statement" and insert "**statements**".
 Page 4, line 4, delete "understands the assignment of" and insert "**understands:**
 (A) the assignment of the prize is voluntary; and
 (B) their right to solicit multiple bids for their payments;".
 Page 4, delete line 5.
 Page 4, delete line 41.
 Page 5, line 1, delete "." and insert "**; and**
 (11) a statement that the person has had an adequate opportunity to receive multiple bids to assign their prize.".
 Page 6, line 5, delete "counsel" and insert "**director**".
 Page 6, line 9, delete "counsel," and insert "**director,**".

and when so amended that said bill do pass.

(Reference is to SB 312 as reprinted February 4, 2014.)

DERMODY, Chair

Committee Vote: yeas 13, nays 0.

